

By: Carona
(Smith)

S.B. No. 673

Substitute the following for S.B. No. 673:

By: Smith

C.S.S.B. No. 673

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the requirements for elevators, escalators, and related
3 equipment; providing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 754.011, Health and Safety Code, is
6 amended to read as follows:

7 Sec. 754.011. DEFINITIONS. In this chapter [~~subchapter~~]:

8 (1) "Acceptance inspection" means an inspection
9 performed at the completion of the initial installation or
10 alteration of equipment and in accordance with the applicable ASME
11 Code A17.1.

12 (2) "Accident" means an event involving equipment that
13 results in death or serious bodily injury to a person.

14 (3) "Alteration" means a change in [~~or modernization~~
15 ~~of~~] existing equipment. The term does not include testing,
16 maintenance, repair, replacement, or a cosmetic change that does
17 not affect the operational safety of the equipment or diminish the
18 safety of the equipment below the level required by the ASME Code
19 A17.1, ASME Code A17.3, ASME Code A18.1, or ASCE Code 21, as
20 applicable, at the time of alteration.

21 (4) "Annual inspection" means an inspection of
22 equipment performed in a 12-month period in accordance with the
23 applicable ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or
24 ASCE Code 21. The term includes an acceptance inspection performed

1 within that period.

2 (5) "ASCE" means the American Society of Civil
3 Engineers.

4 (6) "ASCE Code 21" means the American Society of Civil
5 Engineers Code 21 for people movers operated by cables, as it
6 existed on January 1, 2004, or any subsequent revision of that code
7 adopted after a review by the commission, as required by law.

8 (7) "ASME" means the American Society of Mechanical
9 Engineers.

10 (8) [~~6~~] "ASME Code A17.1" means the American Society
11 of Mechanical Engineers Safety Code for Elevators and Escalators
12 (Bi-national standard with CSA B44-2007), ASME A17.1/CSA-B44, as it
13 existed on January 1, 2004, or any subsequent revision of that code
14 adopted after a review by the commission, as required by law.

15 (9) [~~6-a~~] ~~"Executive director" means the executive~~
16 ~~director of the department.~~

17 [~~7~~] "ASME Code A17.3" means the 2002 American
18 Society of Mechanical Engineers Safety Code for Elevators and
19 Escalators A17.3.

20 (10) [~~8~~] "ASME Code A18.1" means the American
21 Society of Mechanical Engineers Safety Code for Platform Lifts and
22 Stairway Chairlifts A18.1, as it existed on January 1, 2004, or any
23 subsequent revision of that code adopted after a review by the
24 commission, as required by law.

25 (11) [~~9~~] "Board" means the elevator advisory board.

26 (12) [~~10~~] "Commission" means the Texas Commission
27 of Licensing and Regulation.

1 (13) [~~(12)~~] "Contractor" means a person engaged in the
2 installation, alteration, testing, repair, or maintenance of
3 equipment. The term does not include an employee of a contractor or
4 a person engaged in cleaning or any other work performed on
5 equipment that does not affect the operational safety of the
6 equipment or diminish the safety of the equipment below the level
7 required by the ASME Code A17.1, ASME Code A17.3, ASME Code A18.1,
8 or ASCE Code 21, as applicable.

9 (14) [~~(13)~~] "Department" means the Texas Department
10 of Licensing and Regulation.

11 (15) [~~(14)~~] "Equipment" means an elevator, escalator,
12 chairlift, platform lift, automated people mover operated by
13 cables, or moving sidewalk, or related equipment.

14 (16) "Executive director" means the executive
15 director of the department.

16 (17) [~~(15)~~] "Industrial facility" means a facility to
17 which access is primarily limited to employees or contractors
18 working in that facility.

19 (18) "Inspector" means a person engaged in the
20 inspection and witnessing of the tests specified in the adopted
21 standards of ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or
22 ASCE Code 21, as applicable, to determine compliance with those
23 standards.

24 (19) "Owner" means a person, company, corporation,
25 authority, commission, board, governmental entity, institution, or
26 other entity that holds title to a building or facility in which
27 equipment regulated by this chapter is located.

1 (20) [~~(16)~~] "Qualified historic building or facility"
2 means a building or facility that is:

3 (A) listed in or eligible for listing in the
4 National Register of Historic Places; or

5 (B) designated as a Recorded Texas Historic
6 Landmark or State Archeological Landmark.

7 (21) [~~(17)~~] "Related equipment" means:

8 (A) automatic equipment that is used to move a
9 person in a manner that is similar to that of an elevator, an
10 escalator, a chairlift, a platform lift, an automated people mover
11 operated by cables, or a moving sidewalk; and

12 (B) hoistways, pits, and machine rooms for
13 equipment.

14 (22) [~~(18)~~] "Serious bodily injury" means a major
15 impairment to bodily function or serious dysfunction of any bodily
16 organ or part requiring medical attention.

17 (23) [~~(19)~~] "Unit of equipment" means one elevator,
18 escalator, chairlift, platform lift, automated people mover
19 operated by cables, or moving sidewalk, or related equipment.

20 SECTION 2. Section 754.0111, Health and Safety Code, is
21 amended to read as follows:

22 Sec. 754.0111. EXEMPTIONS [~~EXEMPTION~~]. (a) This chapter
23 [~~subchapter~~] does not apply to equipment in a private building for a
24 labor union, trade association, private club, or charitable
25 organization that has two or fewer floors.

26 (b) This chapter [~~subchapter~~] does not apply to an elevator
27 located in a single-family dwelling, except as provided by Section

1 754.0141.

2 (c) This chapter does not apply to equipment located in a
3 building owned and operated by the federal government.

4 (d) This chapter does not apply to equipment in an
5 industrial facility, or in a grain silo, radio antenna, bridge
6 tower, underground facility, or dam, to which access is limited
7 primarily to employees of or working in that facility or structure.

8 SECTION 3. Sections 754.012(a) and (d), Health and Safety
9 Code, are amended to read as follows:

10 (a) The elevator advisory board is composed of nine members
11 appointed by the presiding officer of the commission, with the
12 commission's approval, as follows:

13 (1) a representative of the insurance industry or a
14 registered [~~certified~~] elevator inspector;

15 (2) a representative of equipment constructors;

16 (3) a representative of owners or managers of a
17 building having fewer than six stories and having equipment;

18 (4) a representative of owners or managers of a
19 building having six stories or more and having equipment;

20 (5) a representative of independent equipment
21 maintenance companies;

22 (6) a representative of equipment manufacturers;

23 (7) a licensed or registered engineer or architect;

24 (8) a public member; and

25 (9) a public member with a physical disability.

26 (d) The board shall meet as determined by the executive
27 director or by the presiding officer of the commission [~~at least~~

1 ~~twice each calendar year~~].

2 SECTION 4. Section 754.013, Health and Safety Code, is
3 amended to read as follows:

4 Sec. 754.013. BOARD DUTIES. To protect public safety and to
5 identify and correct potential hazards, the board shall advise the
6 commission on:

7 (1) the adoption of appropriate standards for the
8 installation, maintenance, alteration, operation, testing, and
9 inspection of equipment;

10 (2) the status of equipment used by the public in this
11 state;

12 (3) sources of information relating to equipment
13 safety;

14 (4) public awareness programs related to elevator
15 safety, including programs for sellers and buyers of single-family
16 dwellings with elevators, chairlifts, or platform lifts; and

17 (5) any other matter considered relevant by the
18 commission.

19 SECTION 5. Section 754.014, Health and Safety Code, is
20 amended by amending Subsections (a), (b), (c), (d), (e), (h), (j),
21 (k), (l), and (m) and adding Subsection (h-1) to read as follows:

22 (a) The commission by rule shall adopt standards for the
23 installation, maintenance, alteration, operation, testing, and
24 inspection of equipment used by the public in:

25 (1) buildings owned or operated by the state, a
26 state-owned institution or agency, or a political subdivision of
27 the state; and

1 (2) buildings that contain equipment that is open to
2 the general public, including a hotel, motel, apartment house,
3 boardinghouse, church, office building, shopping center, or other
4 commercial establishment.

5 (b) Standards adopted under [~~by the~~] commission rules may
6 not contain requirements in addition to the requirements in the
7 ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or ASCE Code 21.
8 The standards must allow alteration of existing equipment if the
9 alteration does not diminish the safety of the equipment below the
10 level required by this chapter [~~subchapter~~] at the time of
11 alteration.

12 (c) Standards adopted under [~~by the~~] commission rules must
13 require equipment to comply with the installation requirements of
14 the ASME Code A17.1, ASME Code A18.1, or ASCE Code 21 that was in
15 effect and applicable on the date of installation of the equipment.

16 (d) Standards adopted under [~~by the~~] commission rules must
17 require equipment to comply with the installation requirements of
18 the ASME Code A17.3 that contains minimum safety standards for all
19 equipment, regardless of the date of installation.

20 (e) The executive director may [~~shall~~] grant a delay for
21 compliance with the codes and adopted standards [~~applicable ASME~~
22 ~~Code A17.1, ASME Code A17.3, or ASME Code A18.1~~] until a specified
23 time if the executive director determines that the noncompliance
24 does not constitute a significant threat to passenger or worker
25 safety [~~compliance is not readily achievable, as that phrase is~~
26 ~~defined in the Americans with Disabilities Act (42 U.S.C. Section~~
27 ~~12101 et seq.), or regulations adopted under that Act]. The~~

1 accumulated total time of all delays for a specific noncompliant
2 condition may not exceed three years, except as determined
3 ~~[provided] by [Subsection (f) or as allowed in the discretion of]~~
4 the executive director.

5 (h) The executive director shall grant a waiver of
6 compliance if the noncompliance resulted from compliance with a
7 municipal equipment construction code at the time of the original
8 installation and the noncompliance does not pose imminent and
9 significant danger.

10 (h-1) The executive director may grant a waiver of
11 compliance with the firefighter's service provisions of the ASME
12 Code A17.1 or the ASME Code A17.3 in an elevator that exclusively
13 serves a vehicle parking garage in a building that:

- 14 (1) is used only for parking;
15 (2) is constructed of noncombustible materials; and
16 (3) is not greater than 75 feet in height.

17 (j) One application for a waiver or delay may contain all
18 requests related to a unit of equipment. ~~[A delay may not be granted~~
19 ~~indefinitely but must be granted for a specified time not to exceed~~
20 ~~three years.]~~

21 (k) For purposes of determining the applicable standards
22 and codes under this chapter ~~[section]~~, the date of installation or
23 alteration of equipment is the date that the owner of the real
24 property entered into a contract for the installation or alteration
25 of the equipment. If that date cannot be established, the date of
26 installation or alteration is the date of issuance of the municipal
27 building permit under which the equipment was installed or altered

1 or, if a municipal building permit was not issued, the date that
2 electrical consumption began for the construction of the building
3 in which the equipment was installed.

4 (l) Standards adopted under [~~by the~~] commission rules may
5 include and be guided by revised versions of ASME Code A17.1, ASME
6 Code A18.1, and ASCE Code 21, as appropriate.

7 (m) The executive director may on application of a person
8 and in accordance with procedures adopted under [~~by the~~] commission
9 rules, grant a variance to allow the installation of new technology
10 if the new component, system, subsystem, function, or device is
11 equivalent or superior to the standards adopted under [~~by the~~]
12 commission rules.

13 SECTION 6. Sections 754.0141(a), (b), (c), (e), and (f),
14 Health and Safety Code, are amended to read as follows:

15 (a) Elevators, chairlifts, or platform lifts installed in a
16 single-family dwelling on or after January 1, 2004, must comply
17 with the ASME Code A17.1 or A18.1, as applicable, and must be
18 inspected by a registered elevator [~~OEI-1 certified~~] inspector
19 after the installation is complete. The inspector shall provide
20 the dwelling owner a copy of the inspection report.

21 (b) The commission shall [~~, before January 1, 2004,~~] adopt
22 rules containing minimum safety standards that must be used by
23 registered elevator [~~OEI-1 certified~~] inspectors when inspecting
24 elevators, chairlifts, and platform lifts installed in
25 single-family dwellings.

26 (c) A municipality may withhold a certificate of occupancy
27 for a dwelling or for the installation of the elevator or chairlift

1 until the owner provides a copy of the [~~QEI-1~~] inspection report to
2 the municipality.

3 (e) On completing installation of equipment in a
4 single-family dwelling, a contractor shall provide the dwelling
5 owner with relevant information, in writing, about use, safety, and
6 maintenance of the equipment, including the advisability of having
7 the equipment periodically and timely inspected by a registered
8 elevator [~~QEI-1 certified~~] inspector.

9 (f) An inspection by a registered elevator [~~QEI-1~~
10 ~~certified~~] inspector of equipment in a single-family dwelling may
11 be performed only at the request and with the consent of the owner.
12 The owner of a single-family dwelling is not subject to Section
13 754.0231, 754.0232, 754.0233, 754.0234, or 754.0235 [~~754.022,~~
14 ~~754.023, or 754.024~~].

15 SECTION 7. Section 754.015, Health and Safety Code, is
16 amended to read as follows:

17 Sec. 754.015. RULES. (a) The commission by rule shall
18 provide for:

19 (1) an annual inspection and certification of the
20 equipment covered by standards adopted under this chapter
21 [~~subchapter~~];

22 (2) enforcement of those standards;

23 (3) registration, including certification, of
24 elevator [~~qualified~~] inspectors [~~and contractors~~];

25 (4) registration of contractors;

26 (5) the procedures by which a certificate of
27 compliance is issued and displayed [~~the form of inspection~~

- 1 ~~documents, contractor reports, and certificates of compliance];~~
2 (6) [~~(5)~~] notification to building owners,
3 architects, and other building industry professionals regarding
4 the necessity of annually inspecting equipment;
5 (7) [~~(6)~~] approval of continuing education programs
6 for registered elevator [~~QEI-1 certified~~] inspectors;
7 (8) [~~(7)~~] standards of conduct for individuals who are
8 registered under this chapter [~~subchapter~~];
9 (9) [~~(8)~~] general liability insurance written by an
10 insurer authorized to engage in the business of insurance in this
11 state or an eligible surplus lines insurer, as defined by Section
12 981.002, Insurance Code, as a condition of contractor registration
13 with coverage of not less than:
14 (A) \$1 million for each single occurrence of
15 bodily injury or death; and
16 (B) \$500,000 for each single occurrence of
17 property damage;
18 (10) [~~(9)~~] the submission and review of plans for the
19 installation or alteration of equipment; [~~and~~]
20 (11) [~~(10)~~] continuing education requirements for
21 renewal of contractor registration;
22 (12) maintenance control programs, maintenance,
23 repair, and parts manuals, and product-specific inspection,
24 testing, and maintenance procedures;
25 (13) the method and manner of reporting accidents and
26 reportable conditions to the department; and
27 (14) an owner's designation of an agent for purposes of

1 this chapter.

2 (b) The commission by rule may not:

3 (1) require inspections of equipment to be made more
4 often than every 12 months, except as provided by Subsection (c); or

5 (2) require persons to post a bond or furnish
6 insurance or to have minimum experience or education as a condition
7 of certification or registration, except as otherwise provided by
8 this chapter[~~;~~ ~~or~~

9 [~~(3) prohibit a QEI-1 certified inspector who is~~
10 ~~registered with the department from inspecting equipment].~~

11 (c) The commission by rule may require a reinspection or
12 recertification of equipment if:

13 (1) the equipment has been altered;

14 (2) the equipment [~~and~~] poses a significant threat to
15 passenger or worker safety; or

16 (3) [~~if~~] an annual inspection report indicates an
17 existing violation has continued longer than permitted in a delay
18 granted by the executive director.

19 (d) The executive director may charge a reasonable fee as
20 set by the commission for:

21 (1) registering or renewing registration of an
22 elevator inspector;

23 (2) registering or renewing registration of a
24 contractor;

25 (3) applying for a certificate of compliance;

26 (4) filing an inspection report as required by Section
27 754.019(a)(3), 30 days or more after the date the report is due, for

1 each day the report remains not filed after the date the report is
2 due;

3 (5) submitting for review plans for the installation
4 or alteration of equipment;

5 (6) reviewing and approving continuing education
6 providers and courses for renewal of elevator inspector and
7 contractor registrations [~~registration~~];

8 (7) applying for a waiver, new technology variance, or
9 delay; and

10 (8) attending a continuing education program
11 sponsored by the department for registered elevator [~~OEI-1~~]
12 inspectors.

13 (e) The commission by rule may require inspection reports,
14 other documents, and fees to be filed in a manner prescribed by the
15 department, including electronically.

16 SECTION 8. Section 754.016, Health and Safety Code, is
17 amended to read as follows:

18 Sec. 754.016. INSPECTION REPORTS AND CERTIFICATES OF
19 COMPLIANCE. (a) Inspection reports and certificates of compliance
20 required under this chapter [~~subchapter~~] must cover all equipment
21 in a building or structure appurtenant to the building, including a
22 parking facility, that are owned by the same person or persons.

23 (b) A registered elevator [~~An~~] inspector shall issue [~~date~~
24 ~~and sign~~] an inspection report [~~and shall issue the report~~] to the
25 [~~building~~] owner not later than the fifth [~~10th~~] calendar day after
26 the date of inspection in accordance with the procedures
27 established by commission rule.

1 (c) The executive director shall issue ~~[date and sign]~~ a
2 certificate of compliance ~~[and shall issue the certificate]~~ to the
3 ~~[building]~~ owner. ~~[The certificate of compliance shall state:~~

4 ~~[(1) that the equipment has been inspected by a~~
5 ~~certified inspector and found by the inspector to be in compliance,~~
6 ~~except for any delays or waivers granted by the executive director~~
7 ~~and stated in the certificate;~~

8 ~~[(2) the date of the last inspection and the due date~~
9 ~~for the next inspection; and~~

10 ~~[(3) contact information at the department to report a~~
11 ~~violation of this subchapter.]~~

12 (d) The commission by rule shall:

13 (1) ~~[specify what information must be contained in a~~
14 ~~certificate of compliance;~~

15 ~~[(2) describe the procedure by which a certificate of~~
16 ~~compliance is issued;~~

17 ~~[(3)]~~ require that a certificate of compliance for any
18 equipment ~~[related to an elevator]~~ be posted in a publicly visible
19 area of the building; and

20 (2) ~~[(4)]~~ determine what constitutes a "publicly
21 visible area" under Subdivision (1) ~~[(3)]~~.

22 (e) The department shall prescribe the format and the
23 required information contained in the inspection reports, the
24 certificates of compliance, and other documents.

25 SECTION 9. The heading to Section 754.017, Health and
26 Safety Code, is amended to read as follows:

27 Sec. 754.017. REGISTERED ELEVATOR ~~[CERTIFIED]~~ INSPECTORS.

1 SECTION 10. Sections 754.017(a), (b), and (d), Health and
2 Safety Code, are amended to read as follows:

3 (a) In order to inspect equipment, an individual must:

4 (1) be registered with the department;

5 (2) attend educational programs approved by the
6 department;

7 (3) be certified as an [~~a QEI-1~~] inspector in
8 accordance with the rules adopted by the commission [~~by an~~
9 ~~organization accredited by the American Society of Mechanical~~
10 ~~Engineers~~]; [~~and~~]

11 (4) comply with the continuing education requirements
12 established by commission rule for registration renewal; and

13 (5) pay all applicable fees.

14 (b) A person assisting a registered elevator [~~certified~~]
15 inspector and working under the direct, on-site supervision of the
16 inspector is not required to be registered [~~certified~~].

17 (d) A registered elevator [~~certified~~] inspector may not
18 inspect equipment if the inspector or the inspector's employer has
19 a financial or personal conflict of interest or the appearance of
20 impropriety related to the inspection of that equipment [~~may not be~~
21 ~~required to attend more than seven hours of continuing education~~
22 ~~during each licensing period~~].

23 SECTION 11. Sections 754.0171(a) and (f), Health and Safety
24 Code, are amended to read as follows:

25 (a) A person may not install, repair, alter, test, or
26 maintain equipment without registering as a contractor with the
27 department as required by this chapter [~~subchapter~~].

1 (f) Installation, repair, alteration, testing, and
2 maintenance standards for contractors must be consistent with ASME
3 Code A17.1, ASME Code A17.3, ASME Code A18.1, and ASCE Code 21.

4 SECTION 12. Section 754.0172, Health and Safety Code, is
5 amended to read as follows:

6 Sec. 754.0172. INSPECTION FEE. The amount charged for an
7 inspection or the performance of an inspection of equipment under
8 this chapter [~~subchapter~~] may not be contingent on the existence of
9 a maintenance contract between the person performing the inspection
10 and any other person.

11 SECTION 13. The heading to Section 754.0174, Health and
12 Safety Code, is amended to read as follows:

13 Sec. 754.0174. CONTINUING EDUCATION FOR RENEWAL OF ELEVATOR
14 INSPECTOR AND CONTRACTOR REGISTRATIONS.

15 SECTION 14. Section 754.0174, Health and Safety Code, is
16 amended by adding Subsection (a-1) and amending Subsection (b) to
17 read as follows:

18 (a-1) Each registered elevator inspector must complete
19 continuing education requirements set by commission rule before the
20 inspector may renew the inspector's registration.

21 (b) A provider of continuing education under this section
22 must:

- 23 (1) register with the department; and
24 (2) comply with rules adopted by the commission
25 relating to continuing education for a registered elevator
26 inspector or designated responsible party, as applicable.

27 SECTION 15. Section 754.018, Health and Safety Code, is

1 amended to read as follows:

2 Sec. 754.018. POWERS OF MUNICIPALITIES. Subject to Section
3 754.014(h), if a municipality operates a program for the
4 installation, maintenance, alteration, inspection, testing, or
5 certification of equipment, this chapter [~~subchapter~~] shall not
6 apply to the equipment in that municipality, provided that the
7 standards of installation, maintenance, alteration, inspection,
8 testing, and certification are at least equivalent to those
9 contained in this chapter [~~subchapter~~].

10 SECTION 16. The heading to Section 754.019, Health and
11 Safety Code, is amended to read as follows:

12 Sec. 754.019. DUTIES OF [~~REAL PROPERTY~~] OWNERS.

13 SECTION 17. Sections 754.019(a), (b), and (e), Health and
14 Safety Code, are amended to read as follows:

15 (a) The owner [~~of real property on which equipment covered~~
16 ~~by this subchapter is located~~] shall:

17 (1) have the equipment inspected annually by a
18 registered elevator [~~certified~~] inspector;

19 (2) obtain an inspection report from the inspector
20 evidencing that all equipment in a building on the real property was
21 inspected in accordance with this chapter [~~subchapter~~] and rules
22 adopted under this chapter [~~subchapter~~];

23 (3) file with the executive director each inspection
24 report, and all applicable fees, not later than the 30th calendar
25 [~~60th~~] day after the date on which an inspection is made under this
26 chapter [~~subchapter~~];

27 (4) display the certificate of compliance for the

1 equipment in a publicly visible area as defined by commission
2 rule[-

3 [~~(A) in a publicly visible area of the building,~~
4 ~~as determined by commission rule under Section 754.016, if the~~
5 ~~certificate relates to an elevator,~~

6 [~~(B) in the escalator box if the certificate~~
7 ~~relates to an escalator,~~ or

8 [~~(C) in a place designated by the executive~~
9 ~~director if the certificate relates to equipment other than an~~
10 ~~elevator or escalator]; and~~

11 (5) maintain the equipment in compliance with the
12 standards and codes adopted under commission rules [~~display the~~
13 ~~inspection report at the locations designated in Subdivision (4)~~
14 ~~until a certificate of compliance is issued].~~

15 (b) When an inspection report is filed, the owner shall
16 submit to the executive director, as applicable:

17 (1) verification that any deficiencies in the
18 registered elevator inspector's report have been remedied or that a
19 bona fide contract to remedy the deficiencies has been entered
20 into; or

21 (2) any application for delay or waiver of an
22 applicable standard.

23 (e) An owner shall report to the department each accident
24 involving equipment not later than 24 [~~72~~] hours following the
25 accident.

26 SECTION 18. Section 754.020, Health and Safety Code, is
27 amended to read as follows:

1 Sec. 754.020. CHIEF ELEVATOR INSPECTOR. The executive
2 director may appoint a chief elevator inspector to administer the
3 equipment inspection and registration program. The chief elevator
4 inspector:

5 (1) may not have a financial or commercial interest in
6 the manufacture, maintenance, repair, inspection, installation, or
7 sale of equipment; and

8 (2) must possess the [a-QEI-1] certification or obtain
9 the certification required under Section 754.017 within six months
10 after becoming chief elevator inspector.

11 SECTION 19. Section 754.021, Health and Safety Code, is
12 amended to read as follows:

13 Sec. 754.021. LIST OF REGISTERED ELEVATOR INSPECTORS AND
14 CONTRACTORS; PERSONNEL. The executive director shall:

15 (1) compile a list of elevator [~~certified~~] inspectors
16 and contractors who are registered with the department; and

17 (2) employ personnel who are necessary to enforce this
18 chapter [~~subchapter~~].

19 SECTION 20. Chapter 754, Health and Safety Code, is amended
20 by adding Sections 754.0231, 754.0232, 754.0233, 754.0234, and
21 754.0235 to read as follows:

22 Sec. 754.0231. INSPECTIONS AND INVESTIGATIONS. (a) Except
23 as provided by Subsection (b), the department may conduct an
24 inspection or investigation of equipment regulated under this
25 chapter in accordance with Chapter 51, Occupations Code. The
26 department shall be granted access to any location in the building
27 that is inaccessible to the public in order to conduct a full

1 inspection or investigation of the equipment.

2 (b) If there is good cause for the executive director to
3 believe that equipment on the property poses an imminent and
4 significant danger or that an accident involving equipment occurred
5 on the property, the executive director or the executive director's
6 designee may at any time enter the property to inspect the equipment
7 or investigate the danger or accident. The executive director or
8 the executive director's designee must be granted access to any
9 location in the building that is inaccessible to the public in order
10 to conduct a full inspection or investigation.

11 Sec. 754.0232. REGISTRATION PROCEEDINGS. (a) The
12 commission or executive director may deny, suspend, or revoke a
13 registration under this chapter and may assess an administrative
14 penalty for:

15 (1) obtaining registration by fraud or false
16 representation;

17 (2) falsifying a report submitted to the executive
18 director; or

19 (3) violating this chapter or a rule adopted under
20 this chapter.

21 (b) Proceedings for the denial, suspension, or revocation
22 of a registration and appeals from these proceedings are governed
23 by Chapter 2001, Government Code.

24 Sec. 754.0233. INJUNCTIVE RELIEF; CIVIL PENALTY. (a) The
25 attorney general or the executive director may institute an action
26 for injunctive relief to prevent or restrain a violation or
27 threatened violation of this chapter or a rule adopted under this

1 chapter.

2 (b) The attorney general or the executive director may
3 institute an action to collect a civil penalty from a person that
4 appears to be violating or threatening to violate this chapter or a
5 rule adopted under this chapter. A civil penalty assessed under
6 this subsection may not exceed \$5,000 per day for each violation.

7 (c) An action filed under this section must be filed in a
8 district court in Travis County.

9 (d) The attorney general and the department may recover
10 reasonable expenses incurred in obtaining injunctive relief or
11 civil penalties under this section, including court costs,
12 reasonable attorney's fees, investigative costs, witness fees, and
13 deposition expenses.

14 Sec. 754.0234. EMERGENCY ORDERS. (a) The executive
15 director may issue an emergency order as necessary to enforce this
16 chapter if the executive director determines that an emergency
17 exists requiring immediate action to protect the public health and
18 safety.

19 (b) The executive director shall issue an emergency order in
20 accordance with Chapter 51, Occupations Code.

21 Sec. 754.0235. ORDERS TO DISCONNECT POWER TO OR LOCK OUT
22 EQUIPMENT. (a) An emergency order issued in accordance with
23 Section 754.0234 may also direct an owner to disconnect power to or
24 lock out equipment if:

25 (1) the department determines imminent and
26 significant danger to passenger or worker safety exists if action
27 is not taken immediately; or

1 (2) an annual inspection has not been performed in
2 more than two years.

3 (b) If an emergency order to disconnect power or lock out
4 equipment is issued, the owner may have the power reconnected or the
5 equipment unlocked only if a registered elevator inspector or
6 contractor or a department representative verifies in writing to
7 the department that the imminent and significant danger has been
8 removed by repair, replacement, or other means.

9 (c) If an emergency order to disconnect power or lock out
10 equipment is issued and the owner later notifies the department
11 that the imminent and significant danger no longer exists, the
12 executive director or the executive director's designee shall,
13 after the requirements of Subsection (b) are satisfied, issue
14 written permission to reconnect power or unlock the equipment and
15 notify the owner.

16 SECTION 21. Section 754.025, Health and Safety Code, is
17 amended to read as follows:

18 Sec. 754.025. APPLICATION OF CERTAIN LAW. [~~(a) Chapter 53,~~
19 ~~Occupations Code, applies to a registration under this subchapter.~~

20 [~~(b)~~] Sections 51.401 and 51.404, Occupations Code, do not
21 apply to this chapter, except those sections do apply to Sections
22 754.017 and 754.0171 [subchapter].

23 SECTION 22. The following provisions of the Health and
24 Safety Code are repealed:

- 25 (1) Subchapter A, Chapter 754;
26 (2) the heading to Subchapter B, Chapter 754;
27 (3) Section 754.014(i);

1 (4) Sections 754.0171(d) and (e); and

2 (5) Sections 754.022, 754.023, and 754.024.

3 SECTION 23. (a) The Texas Commission of Licensing and
4 Regulation shall adopt rules implementing Chapter 754, Health and
5 Safety Code, as amended by this Act, not later than January 1, 2014.

6 (b) Sections 754.016(b) and 754.019(a)(3), Health and
7 Safety Code, as amended by this Act, apply only to an inspection
8 initiated on or after January 1, 2014.

9 (c) The repeal by this Act of Subchapter A, Chapter 754,
10 Health and Safety Code, and Section 754.024, Health and Safety
11 Code, does not apply to an offense committed under Section 754.003
12 or 754.024, Health and Safety Code, before the effective date of the
13 repeal. An offense committed before the effective date of the
14 repeal is governed by Section 754.003 or 754.024, Health and Safety
15 Code, as it existed on the date the offense was committed, and the
16 former law is continued in effect for that purpose. For purposes of
17 this section, an offense was committed before the effective date of
18 the repeal if any element of the offense occurred before that date.

19 SECTION 24. This Act takes effect September 1, 2013.